

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Michael J. Heller et al.**

Serial No.: 09/128,718

Filed: August 4, 1998

For: METHODS AND APPARATUS FOR  
ELECTRONIC SYNTHESIS OF  
MOLECULAR STRUCTURES

Group Art Unit: 1631

Examiner: Marjorie Moran

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

01/31/2007 WASFAW1 00000023 502862 09128718  
02 FC:2814 65.00 DA

Sir:

I, David B. Murphy, represent that I am an attorney of record for the above-identified application. NANOGEN, INC. (hereinafter referred to as "NANOGEN") is the owner of 100% interest in the above-identified invention by virtue of assignment from the inventor to NANOGEN in the original parent application, U.S. Application Serial No. 08/146,504, filed November 1, 1993, now U.S. Patent No. 5,605,662. The assignment from the inventor to NANOGEN was recorded in the Patent and Trademark Office on March 4, 1994, on Reel 6898, Frame 421.

NANOGEN hereby disclaims the terminal part of any patent granted on the above-identified application which would extend beyond the expiration dates of the full statutory terms of U.S. Patent Nos. 5,929,208 and 6,238,624, which patents are presently assigned to NANOGEN. Moreover,

**CERTIFICATE OF MAILING**  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit  
NB1:705795.1

Denise N. Doss

Patent  
Attorney Docket: 612,404-244

NANOGEN hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 5,929,208 and 6,238,624, this agreement to run with any patent granted on the above-identified application and to be binding upon NANOGEN, its successor, or assigns.

NANOGEN does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory terms of U.S. Patent Nos. 5,929,208 and 6,238,624 in the event that one or both patents later expire for failure to pay a maintenance fee, is/are held unenforceable, is/are found invalid, is/are statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.312(a), has/have all claims canceled by a reexamination certificate, or is/are otherwise terminated prior to expiration of their statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The Commissioner is hereby authorized to charge the requisite fee of \$65.00 in connection with the submission of this Terminal Disclaimer to Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: 1/26/07

By: David B. Murphy  
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Reg. No. 31,125

DBM/dnd

**34263**

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